



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF

South Dayton Landfill (Grillot Landfill)
Environmental Remediation Trust
C/O Mr. Timothy D. Hoffman, Attorney
Coolidge Wall Womsley & Lombard LPA
33 W First St, Suite 600
Dayton, OH 45402

EPA Region 5 Records Ctr.



366210

Re: Request for Information Pursuant to Section 104(e) of CERCLA
for South Dayton Dump, 1976 Dryden Road (aka) Springboro
Pike, Moraine, Ohio

Dear Sir:

This letter seeks your cooperation in providing information and documents relating to the contamination of the South Dayton Dump Superfund Site in Moraine, Ohio. A Superfund site is a site contaminated with hazardous substances that may present a threat to human health or the environment.

The United States Environmental Protection Agency (U.S. EPA or "Agency") is investigating the release, or threat of release, of hazardous substances, pollutants or contaminants at the South Dayton Dump Site. The U.S. EPA is seeking information concerning the generation, storage, treatment, transportation, and disposal methods of hazardous substances that have been, or threaten to be, released from the Site. The U.S. EPA will study the effects of these substances on the environment and public health. In addition, U.S. EPA will identify activities, materials, and parties that contributed to contamination at the Site. The U.S. EPA believes that you possess information which may assist the Agency in its investigation of the Site. Enclosure 1 is a summary of the information that U.S. EPA has about the Site and of the Agency's activities there.

We encourage you to give this matter your immediate attention. Please provide a complete and truthful response to this Information Request and its questions in Enclosure 2 within thirty (30) days of your receipt of this letter. Instructions to guide you in the preparation of your response are in Enclosure 3. Definitions of the terms used in this Information Request and in the Questions are in Enclosure 4.



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FEB 24 2004

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Margaret Grillot
Ms. Kathryn Boesch
C/O Mr. Timothy D. Hoffman, Attorney
Coolidge Wall Womsley & Lombard LPA
33 W First St, Suite 600
Dayton, OH 45402

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You may consider the information confidential that U.S. EPA is requesting. Under CERCLA, you may not withhold information on that basis, but you may ask U.S. EPA to treat the information as confidential. To request that the Agency treat your information as confidential, you must follow the procedures outlined in Enclosure 5, including the requirement that you support your claim for confidentiality.

We make this request under the Federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq., commonly referred to as CERCLA or Superfund). The Superfund law gives U.S. EPA the authority to assess the threats to human health and the environment posed by contaminated sites and to clean up those sites. Under Section 104(e)(2) of CERCLA, 42 U.S.C. §9604(e)(2), the U.S. EPA has information-gathering authority that allows the Agency to require persons and corporations to furnish information or documents. Enclosure 6 is a summary of the legal authority.

Compliance with this Information Request is mandatory. The Superfund statute provides that failure to answer the questions fully and truthfully and within the prescribed time frame can result in an enforcement action and penalties. Other statutes provide that the submission of false, fictitious statements, or misrepresentations can result in sanctions.

The U.S. EPA has the authority to use the information that it requests in an administrative, civil, or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

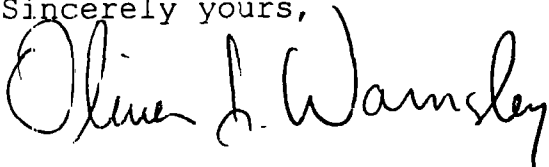
Return your response to U.S. EPA within thirty (30) days. Mail your response to:

Mr. Thomas Nash
Assistant Regional Counsel
U.S. Environmental Protection Agency
Immed OFC, Multi-Media Branch Section 3
77 W. Jackson Blvd., C14J
Chicago, IL. 60604-3590

If you have any questions, please call Thomas Nash, Assistant Regional Counsel, at (312)886-0552.

What you know about this Site, the waste there, and any generator or transporter who sent waste to this Site is important in helping U.S. EPA reach an understanding of the nature and extent of the contamination and how hazardous that contamination is. Your knowledge is also important in determining the distribution of cleanup costs among those responsible for the Site and the public. Again, we ask that you respond truthfully, completely, and promptly, thank you for your assistance.

Sincerely yours,

A handwritten signature in cursive script, reading "Oliver L. Warnsley". The signature is written in dark ink and is positioned above the typed name.

Oliver L. Warnsley, Acting Chief
Enforcement Support Section

Enclosures 1. Site History
 2. Questions
 3. Instructions
 4. Definitions
 5. Confidential Business Information
 6. Legal Authority
 7. Small Business

SITE HISTORY

The South Dayton Dump site is an inactive landfill located at 1975 Dryden Road (formerly Springboro Pike) in Moraine, Ohio. The landfill operated between 1941 and 1990 and covers approximately 80 acres. The landfill is located in a heavily industrial and commercial area. Some filled areas of the site have been sold or leased and are being used for industrial and commercial enterprises. About 40 acres of the site is vacant.

The landfill is located 350 feet east of the Great Miami River. The landfill is separated from the river by a tree-lined manmade levee and a flat open area with a bicycle trail. The open area and the bicycle trail are in the 100-year flood plain and are owned by the Miami Conservancy District. The site also contains a federally designated wetland. A trailer park is located across the street from the landfill on the southeast corner of Dryden and East River Roads.

The site is located within a secondary wellhead protection area. A drinking water well and an industrial production well are located on the site.

Materials disposed at the landfill include drums, metal turnings, fly ash, foundry sand, demolition material, wooden pallets, asphalt, paint, paint thinner, oils, brake fluids, solvents and other industrial wastes. The primary disposal practice was open burning followed by landfilling. Soil borings show that the thickness of the landfill ranges from about 4 to 6 feet below ground surface, with one location having as much as 12 feet of fill. The water table ranges from about 12 to 18 feet below ground surface. Groundwater generally flows west-southwest toward the Great Miami River and may also discharge to the gravel pit south of the site.

EPA conducted a Screening Site Inspection of the landfill in 1991 and a Focused Site Inspection Prioritization Site Evaluation in 1995. Ohio EPA conducted a Site Team Evaluation Prioritization of the landfill in 1996, and in June 2002 EPA conducted an Aerial Photographic Analysis.

Threats and Contaminants

Soil contains metals including lead, copper, antimony, arsenic, barium, beryllium, cadmium and mercury and organic compounds including polychlorinated biphenyls (PCBs), trichloroethene (TCE), tetrachloroethene (PCE) and polynuclear aromatic hydrocarbons (PAHs). Groundwater contains vinyl chloride, TCE, 1,2-dichloroethene and other volatile organic compounds. Sediment in the water-filled gravel pit contains PCBs and pesticides, and sediment in the adjacent Great Miami River contains pesticides and mercury.

SITE HISTORY Continued

Cleanup Progress

In 2000 Valley Asphalt removed drums and 2,217 tons of contaminated soils from their property that was found during excavation for a sewer line. In 2002 EPA entered into negotiations with five potentially responsible parties to conduct a remedial investigation and a feasibility study at the landfill. Negotiations were unsuccessful and EPA is currently working on preparing an NPL listing package for the site.

Enclosure 2

QUESTIONS

1. Provide all sampling and analytical data generated at the South Dayton Dump site including, but not limited to, sampling and analytical data generated by the Payne Firm.
2. Provide all field Sampling Plans, sample collection logs, and field logbooks and notebooks for all sampling conducted at the site in support of the July 26, 2002 Environmental Data Summaries, South Dayton Landfill(Grillot Landfill) Report prepared by the Payne firm, and for all other sampling conducted at the site, including, but not limited to, sampling conducted by the Payne Firm.

Enclosure 3

INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Precede each answer with the number of the question to which it corresponds.
3. In answering each question, identify all persons and contributing sources of information.
4. Although the U.S. EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. §9604, authorizes the U.S. EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
5. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify U.S. EPA as soon as possible.
6. For any document submitted in response to a question, indicate the number of the question to which it responds.
7. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
8. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information

submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

9. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
10. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 5.

DEFINITIONS

1. As used in this letter, words in the singular also include the neutral, and words in the masculine gender also include the feminine, and vice versa.
2. The term **person** as used herein includes in the plural as well as the singular any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. **The Site** referenced in these documents shall mean the **South Dayton Dump** located in Moraine, Ohio.
4. The terms **hazardous substance** shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.
5. The terms **pollutant** or **contaminant** shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
6. The term **release** shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.
7. The term **identify** means, with respect to a natural person, to set forth the person's full name, present or last known business address, and business telephone number; present or last known home address, and home telephone number; and present or last known job title, position, or business.
8. The term **identify** means, with respect to a corporation, partnership, business, trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
9. The term **identify** means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
10. All terms not defined herein will have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R., Part 300 or 40 C.F.R., Part 260-280, in which case, the statutory or regulatory definitions will apply.

Enclosure 5

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (U.S. EPA or Agency) is requesting. You cannot withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 et seq require that the U.S. EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (See 41 Federal Register 36902 et seq. (September 1, 1976); 43 Federal Register 4000 et seq. (December 18, 1985).) If no such claim accompanies the information when the U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA); because as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the U.S. EPA to treat the information or record as "confidential," you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential," and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether the U.S. EPA or other Federal agency has made pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;
5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information; and
6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. 2.201(I). If you make this assertion, explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future; and
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. 2.208(e), the burden of substantiating confidentiality rests with you. The U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. 2.205(c). If you do not identify this information and documents as "confidential," your comments will be available to the public without further notice to you.

ATTACHMENT 6

DESCRIPTION OF LEGAL AUTHORITY

The Federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. (commonly referred to as **CERCLA** or **Superfund**) gives U.S. EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site; and 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. §9604 (e)(2), U.S. EPA has broad information gathering authority which allows U.S. EPA to require persons to furnish information or documents relating to:

A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;

B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;

C. The ability to pay the costs of the clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. §1001) authorize separate penalties if the responses contain false, fictitious or fraudulent statements. The U.S. EPA has the authority to use the information requested in this Information Request in an administrative, civil or criminal action.



U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers: <http://www.epa.gov/clearinghouse>

Pollution Prevention Clearinghouse
<http://www.epa.gov/opptintr/library/ppicindex.htm>

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs:
(800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8302

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone and Refrigerants Information
(800) 296-1396

Clean Air Technology Center
(919) 541-0300

Wetlands Helpline
(800) 832-7328

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
<http://www.epa.gov>

Small Business Assistance Program
<http://www.epa.gov/ttr/sbap>

Office of Enforcement and Compliance Assurance
<http://www.epa.gov/compliance>

Compliance Assistance Home Page
<http://www.epa.gov/compliance/assistance>

Office of Regulatory Enforcement
<http://www.epa.gov/compliance/civil/index.html>

Office of Site Remediation Enforcement
<http://www.epa.gov/compliance/cleanup>

Innovative Programs for Environmental Performance
<http://www.epa.gov/partners>

Small Business Ombudsman
www.sba.gov/ombudsman



Compliance Assistance Centers

In partnership with industry, universities, and other federal and state agencies, EPA has established national Compliance Assistance Centers that provide Internet and "faxback" assistance services for several industries with many small businesses. The following Compliance Assistance Centers can be accessed through the Center's gateway at <http://www.assistancecenters.net> or by calling the phone numbers below and at their respective websites:

Metal Finishing

(1-800-AT-NMFRC or www.nmfrc.org)

Printing

(1-888-USPNEAC or www.pneac.org)

Automotive Service and Repair

(1-888-GIRN-LINK or www.ccar-greenlink.org)

Agriculture

(1-888-663-2155 or www.epa.gov/agriculture)

Printed Wiring Board Manufacturing

(1-734-995-4911 or www.pwbr.org)

The Chemical Industry

(1-800-672-6048 or www.chemalliance.org)

The Transportation Industry

(1-888-459-0656 or www.transource.org)

The Paints and Coatings Center

(1-800-286-6372 or www.paintcenter.org)

Three new centers are under development for the auto salvage sector, the construction industry, and U.S. Mexican border waste issues.

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information. For assistance in reaching state agencies, call EPA's Small Business Ombudsman at (800)-368-5888 or visit the Small Business Environmental Homepage at <http://www.smallbiz-enviroweb.org/state.html>.

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations, businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses: The Audit Policy (<http://www.epa.gov/compliance/incentives/auditing>) and the Small Business Policy (<http://www.epa.gov/compliance/incentives/smallbusiness>).

These do not apply if an enforcement action has already been initiated.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an ombudsman ("SBREFA Ombudsman") and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The SBREFA Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community because the regulated community previously commented on its activities.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) or related provisions.

Enclosure 8

SOUTH DAYTON DUMP
List of 104(e) recipients

1. Ms. Margaret Grillot
Ms. Kathryn Boesch
C/O Mr. Timothy D. Hoffman, Attorney
Coolidge Wall Womsley & Lombard LPA
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Dayton, OH 45402

2. South Dayton Landfill (Grillot Landfill)
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